IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL MISC. APPEAL NO.403/99

Regional Director, ESI

Versus

M/s. Pavan Udyog & Anr.

DATE OF ORDER :: 20/07/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Ankur Saxena for Mr. A.S. Khangarot, for appellant
Mr. Rakesh Kumar, for respondents

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Instant appeal has been filed by appellant assailing the order dated 25th July, 1995 whereby application filed by respondent u/s.75 of Employees State Insurance Act, 1948, was allowed by Prescribed Authority.

I have considered the submission of both the counsel and perused the finding recorded under order impugned.

Basic question which came for consideration was as to whether in the establishment M/s. Pavan Udhyog when the Inspector inspected the Unit what was the total strength of employees working at the relevant point of time. As such, issue No.1 was framed by the Prescribed Authority which alone could have been considered to invoke the provisions of Act, 1948. Basically Exhibit-A1 & Exhibit-A2 were Inspector's report which were considered to be a basis by the appellant to show that at the relevant point of time more than 14

employees were working, as such provisions of Act, 1948 are made applicable and condition thereof has not been followed by the establishment. Contrary to it, it was specifically pleaded by establishment that at no point of time more than 4-5 employees had worked and the provisions of Act, 1948 are not applicable.

It is to be pointed out at this stage that Inspector's report placed by appellant was not supported by any witness and neither the author of the report nor officer who was holding the post at the relevant point of time has turned up in support of Inspector's report Ann.A1 & Ann.A2. In the absence of material being properly supported by appellant on record the learned Prescribed Authority recorded a finding that since they have failed to establish that total employees working in the establishment were more than 10 which alone could invoke the provisions of Act, 1948, finally allowed the appeal preferred by respondent under order impugned.

I have gone through the finding recorded and this court is of the opinion that learned Prescribed Authority has not committed any error in passing order impugned.

Consequently, the appeal fails and is hereby dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.